

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket № 16055US01

**In the Application of:**

Ling Su, et al.

Serial No. 10/810,998

Filed: March, 26, 2004

For: COLLABORATIVE COEXISTENCE  
WITH DYNAMIC PRIORITIZATION OF  
WIRELESS DEVICES

Examiner: Matthew C. Sams

Group Art Unit: 2617

Confirmation No. 8997

**Electronically Filed on July 9, 2007**

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on March 7, 2007 ("Final Office Action") with a **period of reply through July 9, 2007, pursuant to the attached Petition for One Month Extension of Time**. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on May 31, 2007 ("Advisory Office Action"). No amendments are being filed with this request.

**This request is being filed with a Notice of Appeal.** The review is being requested for the reasons stated on the attached sheets.

## REMARKS

Claims 1, 3-6, 8, 10-12, 15, 16, 21-23, 25-30, 32-35, 38 and 39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0204031, issued to Kardach, et al. (hereinafter, Kardach). Claims 2, 13, 14, 19, 24, 36 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kardach, in view of U.S. Patent No. 6,978,121, issued to Lane, et al. (hereinafter, Lane). Claims 7, 17, 29 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kardach, in view of U.S. Patent Publication No. 2004/0218580, issued to Bahl, et al. (hereinafter, Bahl). Claims 9 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kardach, in view of U.S. Patent Publication No. 2004/0009751, issued to Michaelis, et al. (hereinafter, Michaelis). Claims 18 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kardach, in view of U.S. Patent No. 7,003,285, issued to Carter (hereinafter, Carter). Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kardach, in view of Lane as applied to claim 19 above, and further in view of Michaelis. The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

### **I. Kardachi Does Not Teach Assigning First and Second Priority Indications to First and Second Transceiver Circuits**

The Examiner states the following in page 2 of the Advisory Office Action:

Kardach clearly teaches that the DSSS channel (802.11) can have a higher or lower priority than the FHSS channel (Bluetooth) and that the FHSS channel can be higher or lower than the DSSS channel. (Pages 4-5 [0030-0031]).

The Applicant points out that **the above citations from paragraphs 0030-0031 of Kardach only discloses various types of “high priority” communications** that are performed by the 802.11 transceiver or the Bluetooth transceiver. For example, Kardach discloses that a “high priority” type of communication for the 802.11 transceiver may be “acknowledgement of a reception of data packets, a CTS (clear-to-send) reception, and a beacon reception.” See Kardach at ¶ 0030. Similarly, discloses that a “high priority” type of communication for the Bluetooth transceiver may be “device discovery, connection establishment, etc.” See Kardach at ¶ 0031. In other words, **Kardach, at paragraphs 0030 and 0031, only discloses assigning “high priority” status to various types of communications.** Therefore, **Kardach does not disclose or suggest assigning priority indications to the first and second transceivers, regardless of the type of communication that they perform,** as recited in Applicant’s claim 1.

## **II. Kardachi Does Not Teach Assigning ... First and Second Priority Indications ... Selected From a Plurality of Priority Indications**

The Examiner states the following in page 2 of the Advisory Office Action:

Kardach clearly gives examples of programs and situations that would have differing priority levels (i.e. clear-to-send, beacon reception, human interface device profile, connection establishment, device discovery...). (Pages 4-5 [0030-0031]).

The Applicant respectfully disagrees. As already stated above, **the “programs and situations” quoted by the Examiner are simply different types of communications, which are all classified as having “high priority.”** As it can be seen from paragraphs 0030 and 0031, Kardach does not disclose or suggest a plurality of priority indications or “programs and situations that would have differing priority levels,” as erroneously claimed by the Examiner.

In the Final Office Action, the Examiner has further relied for support on Figure 8 of Kardach. More specifically, the Examiner alleges that steps 872, 874 and 880 from Figure 8 of Kardach are equivalent to “three priority levels.” The Applicant respectfully disagrees. As already stated in the May 7, 2007 response, **steps 872, 874, and 880 described in Figure 8 of Kardach disclose various functions executed by the device 110**, based on whether the 802.11 communication is characterized as having “high priority.” In other words, the determination of whether or not the 802.11 communication is of “high priority” determines which of steps 872, 874 or 880 are executed.

Therefore, the Applicant maintains that Kardach does not disclose or suggest “assigning ... first and second priority indications ... selected from a plurality of priority indications,” as recited by Applicant’s claim 1.

## **III. Kardachi Does Not Teach Assigning a Third Priority Indication...When a Predetermined Application is Detected**

Furthermore with regard to the rejection of independent claim 1, the Applicant submits that Kardach does not disclose or suggest at least the limitation of **“detecting an application** that is configured to receive or transmit data on the second wireless transceiver circuit ... and **assigning a third priority indication** to the second wireless transceiver circuit **when the predetermined application is detected**,” as recited by the Applicant in independent claim 1.

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 11 under 35 U.S.C. § 102(e) as being anticipated by

Kardach has been overcome and requests that the rejection be withdrawn. Additionally, claims 3-6, 8, 10, 12, 15 and 16 depend from independent claims 1 and 11, and are, consequently, also respectfully submitted to be allowable.

#### IV. Claim Rejections Under 35 U.S.C. § 103(a)

The Examiner has not addressed Applicant's arguments relating to the 35 U.S.C. § 103(a) rejections, as stated in the May 7, 2007 response. Therefore, the Applicant respectfully maintains the 35 U.S.C. § 103(a) arguments stated in pages 26-29 of the May 7, 2007 response.

#### V. Conclusion

The Applicant respectfully submits that claims 1-41 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: July 9, 2007

By: 

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